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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)

later: Mrs. SINEGIORGIS (Ethiopia)

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Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

(a) Problems related to the right to enjoy an adequate standard of living; foreign debt, economic adjustment policies and their effects on the full enjoyment of human rights and, in particular, on the implementation of the Declaration on the Right to Development;

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(b) The effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms;

(c) Popular participation in its various forms as an important factor in development and in the full realization of all human rights (continued)

Question of the realization of the right to development (continued)

Status of the International Covenants on Human Rights (continued)

Effective functioning of bodies established pursuant to United Nations human rights instruments (continued)

The meeting was called to order at 3.5 p.m.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT;

(b) THE EFFECTS OF THE EXISTING UNJUST INTERNATIONAL ECONOMIC ORDER ON THE ECONOMIES OF THE DEVELOPING COUNTRIES, AND THE OBSTACLE THAT THIS REPRESENTS FOR THE IMPLEMENTATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(c) POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS (agenda item 7) (continued)) (E/CN.4/1990/8 and E/CN.4/Sub.2/1989/19)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 8) (continued) (E/CN.4/1990/9 (Part III), E/CN.4/1990/33; E/CN.4/1990/NGO/18 and E/CN.4/1989/10)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 17) (continued) (E/C.12/1988/1; CCPR/C/2/Rev.2 and A/44/441)

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (agenda item 18) (continued) (E/CN.4/1990/39; A/44/539 and 668)

1. Mr. TROTTIER (Canada), commenting on agenda item 17, said that, during the past year, remarkable progress had been made in the realization of true democratic values and respect for the rule of law, with the fundamental recognition of the dignity and rights of all human beings as set forth in the International Bill of Human Rights. Nevertheless, the International Covenants on Human Rights had not yet been accepted as broadly as would be wished, and greater efforts should be made to convince the considerable number of States which continued to prefer not to become parties to them that it was desirable to do so.

2. Equally important was the question of the effective implementation of the obligations provided for in those international instruments. For several years, efforts had been made to examine in greater detail the problems which United Nations treaty bodies were experiencing in applying the international instruments and to try to provide long-term solutions for them. In that regard, at their meeting in 1988, the chairpersons of the human rights treaty bodies had recommended several practical measures to enable the treaty bodies to improve their working capacity and to ease somewhat the burden imposed on the States parties. In view of the undeniable utility of that meeting, his delegation was pleased to note that a further meeting was currently being considered, since it was convinced that such meetings of all the parties

interested in the fulfilment of human rights obligations were essential in order to find short- and medium-term practical solutions for the problems encountered. Nevertheless, such periodic meetings were insufficient to solve all problems, and it was clear that long-term strategies likely to enjoy broad support in the United Nations must be developed. The detailed study prepared by Mr. Alston, the independent expert on the subject should facilitate the formulation of such strategies. In his delegation's view, careful consideration should be given to the recommendations and conclusions contained in that study, particularly to the proposals for improving the reporting mechanisms and for ensuring that the work done by the United Nations in the human rights field was well documented and made accessible to the greatest number of people possible.

3. States which, like Canada, had ratified a number of international human rights instruments appreciated what a burden reporting obligations placed on both the States parties and the supervisory bodies. One specific proposal in the Alston report that could be implemented immediately was the proposal to rationalize requests for information within the United Nations system, since, without reducing the effectiveness of information-gathering, better co-ordination among the various bodies could thus be achieved and duplication could be avoided.

4. At the forty-fifth session, his delegation had also supported the proposal to set up a task force to study the advantages of the use of computers by the supervisory bodies. It therefore welcomed the publication of the report on the subject (E/CN.4/1990/39) and the recommendations contained therein.

5. Turning to agenda items 7 and 8, he pointed out that the question as to whether economic, social and cultural rights should have priority over civil and political rights or vice versa had led to often sterile debates and that the Commission would do better to focus its energies on questions of more immediate interest. In any case, his delegation recognized the indivisibility and interdependence of both categories of rights and considered that one of the fundamental goals of the United Nations should be to act constructively on the basis of the equality of both sets of rights. It was, nevertheless, vital that the implementation of one set of rights should not be subordinated to that of the other, as the Special Rapporteur, Mr. Danilo Türk, had pointed out in his preliminary report to the Sub-Commission (E/CN.4/Sub.2/1989/19). His delegation agreed with the Special Rapporteur that support for economic, social and cultural rights must be complemented by respect for and observance of civil and political rights; however, it also considered that further studies were needed to strengthen the implementation of all categories of rights. The study to be prepared by the Special Rapporteur should facilitate that process as far as economic and related rights were concerned, while the extremely important work being done by the Committee on Economic, Social and Cultural Rights, particularly its preparation of general comments on the provisions of the International Covenant, should not be overlooked.

6. Among the other initiatives currently under way, his delegation particularly welcomed the discussion on the appropriate means of ensuring the implementation of the Declaration on the Right to Development, as well as the global consultations which had recently taken place on the subject. Careful attention must be paid to ensuring that the means devised were properly

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planned and that the goals were clearly defined and achievable. Efforts had been made over the past few years to include in the Commission's agenda other major items such as extreme poverty and debt and they undoubtedly had a bearing on the realization of certain human rights, but they should in no way detract from the already clearly defined human rights obligations of all States. It was also vital that the Commission and the Sub-Commission should not duplicate the work already under way in other bodies specifically designed to study those very real problems.

7. Canada pledged its continued support to the Commission for the analysis of the extremely important issues covered by the various agenda items under consideration.

8. Mrs. GALVIS (Colombia) said, with respect to agenda item 8, that the right to development had gradually become one of the rights recognized as appertaining to everybody without distinction of place, race, or political or religious conviction. The Declaration contained in General Assembly resolution 41/128 of 4 December 1986 made it the essential basis for the realization of human rights and a prerequisite for the application of the human rights conventions and covenants. In its preamble, it recognized the existence of a comprehensive idea within which the right to development enlarged its range beyond the mere concept of economic profitability to include the human being and his personal, social and political fulfilment. That new idea constituted the basis for the standards which the international community was endeavouring to embody in its corpus of legislation. The right had to take into account the balance between factors which had traditionally been relegated to a secondary status. Such a balance entailed the recognition of human beings as real agents, whether they were sturdy men and women in the economically active population group, children preparing to become economically active, or persons who had already made their contribution to the process. Among those categories the so-called "vulnerable" and "marginalized" groups represented by indigenous populations, women and all minorities must not be overlooked, since they, too, were actors in development who participated in economic production but who had so far not been considered worthy to enjoy its benefits effectively. Nature itself must be added to the picture, and man's behaviour with regard to renewable natural resources, particularly perishable resources, must be reviewed.

9. In that new perspective, the effective orientation of development policies played a decisive role; in particular, the obstacles to the achievement of the fundamental objective must be eliminated if the current paradox whereby the alleged progress of peoples coexisted with hunger, poverty and war was to be avoided. One of the first obstacles to be eliminated was the traditional political attitude reflected in the manipulation of development programmes for the benefit of one-sided and individual interests, an attitude which must give way to a pluralist conception of the actors and to the affirmation of the human being as the fundamental subject. Among the other factors which disrupted development policies and programmes, mention must be made of the external debt of the third world, illegal arms trafficking, drug trafficking and its degrading effects on youth, violence, mercenarism, corruption and the destabilization of democratic Governments. Those obstacles should be given priority treatment.

10. The faulty integration of goals, principles, programmes and the bodies responsible for their execution was one of the other limitations which had to be surmounted by the international community. The often individualist and utilitarian mentality of those who directed the process must also be denounced and replaced by solidarity and a humanization of development. The elimination of such obstacles required a national and international agreement by all the development actors around the principles recognized in the 1986 Declaration and the subsequent formulations of the General Assembly, the Economic and Social Council and the Commission on Human Rights.

11. The Working Group of Governmental Experts responsible for making a further study of the matter referred in its report (E/CN.4/1989/10), to the substantial progress made in the theoretical field. However, the real actors in the new development dimension had still to assimilate that innovatory concept, and States and governmental and private agencies had still to incorporate the new goals into their activities, so that individuals and peoples could achieve real material and personal fulfilment in all aspects of life and effectively enjoy their own resources. It would also be necessary for men and women, individually and as members of society, to become aware of their responsibilities as active agents of development, which, as the Working Group had indicated, was not only a fundamental right but also an individual, social and political necessity.

12. The establishment of the right to development opened up the way for a new generation of rights that would be founded on solidarity, the elimination of extreme poverty envisaged in General Assembly and Commission resolutions, the regulation of scientific and technical activities and of their impact on the continuity of the species, respect for nature and the protection of natural resources, and the right of individuals and groups to participate in decision-making on matters of general interest. The new generation of rights was undoubtedly an expression of the progress made towards strengthening democracy in the international community. The right to development therefore grouped together the three generations of human rights, the first two of which had been established by the International Covenants on Human Rights. The right to development implied the need to devise policies and execute programmes which reflected the exercise of all those inseparable rights. It also made it possible to bring together individual and collective rights and it implied the integration of the principal actors of development around its fundamental goal, as well as entailing intercommunication between governmental human rights bodies and the official and private institutions that implemented programmes.

13. Unless joint action was taken, there was a danger of consecrating as a guiding principle a questionable instrument that might strengthen the existing characteristics of development and constitute a blind alley for the integral realization of human rights by allowing hunger and poverty to proliferate in the third world.

14. It was therefore advisable to continue with the consideration of the subject and with the exchange of ideas and experience that had taken place in the Group of Experts, as well as to prepare a strategy for unifying the criteria used for the current development policy with a view to incorporating in it, without further delay, the instruments which served as guidelines for the United Nations community as a whole and for multilateral trade negotiating

forums such as the Uruguay Round, so that the developing countries could increase their participation in international trade in goods and services. Action must also be taken to create a movement to strengthen an integral development culture capable of resolving the problems caused by one-sided ideas of social progress.

15. Mr. JAZIC (Yugoslavia) said that the General Assembly's adoption of the Declaration on the Right to Development on 4 December 1986 had been an event of the greatest importance for the universal recognition of the right to development as a human right and for the realization of other rights. The Commission should therefore focus its attention on activities to that end. The global consultation arranged by the Secretary-General pursuant to Commission resolution 1989/45, which had been attended by eminent experts in the development and human rights fields, had to a large extent helped to improve understanding of the complex relationship and interdependence between development and human rights. The results obtained should make it possible to improve the co-ordination of United Nations activities in that respect, which had so far been relatively modest. The report on the global consultation (E/CN.4/1990/9), with its conclusions and recommendations, constituted a valid general basis for further discussions on the main problems posed by the realization of the right to development, but it also contained proposals for specific action to be taken at the national and international levels.

16. His delegation fully endorsed the conclusion that popular participation could play a central role in the realization of the right to development. It was the most direct expression of the principle, recognized by Yugoslavia at the national level, that man was at the centre of development, in which he must be at the same time an active participant and a beneficiary. With regard to the role played by democracy at all levels in real development, his Government recognized that the democratic reform of existing political relations, as well as of economic and social policies, was essential for the promotion of the right to development. The reforms currently being undertaken in Yugoslavia were directed towards those ends, since they were designed to improve overall economic efficiency and to strengthen political democracy, plurality of ownership and the promotion of human rights and fundamental freedoms, with a view to creating a modern State.

17. The experts had also stressed the close relationship between human rights and development strategies. Ill-conceived or poorly adapted development models, external debt and other serious economic problems hampering structural adjustment in many developing countries had had grave repercussions on human rights, to the point of making it practically impossible to apply the right to development in many countries.

18. His delegation endorsed the criteria proposed in the report for evaluating the progress made in realizing the right to development, particularly living and working conditions and equality of access to resources, but the most important of them were still, in its opinion, the processes, mechanisms and institutions providing for participation.

19. As to the measures to be taken to realize the right to development, the Commission, as the principal body competent to discuss them, ought to propose new solutions aimed at strengthening the right to development and specific measures for the gradual establishment of a mechanism for evaluating the

progress made in implementing the Declaration. Such a mechanism should have a mandate to consider the relevant criteria, to adopt recommendations for a global strategy, to examine reports on internal and external obstacles, to identify activities that might be incompatible with the right to development, and to promote wider knowledge and understanding of the right. It could take the form of a committee or a group of experts, a special rapporteur, or some other arrangement.

20. The next stage should be to request the Secretary-General to transmit the report on the global consultation to all Governments, United Nations organs, specialized agencies and all other governmental and non-governmental organizations, in order to seek their views and specific comments on the results of the consultation and on the recommendations made regarding the implementation mechanisms. It would also be necessary for the Centre for Human Rights to continue to co-operate in all activities concerning the implementation of the Declaration.

21. As far as the right to popular participation was concerned, his delegation recalled that, by its resolution 1989/14, the Commission had requested the Secretary-General to prepare a study on the application of the right to participation at the national level, to be submitted to the Commission at its forty-seventh session. His delegation again expressed the hope that the study requested would make a creative and substantial contribution to enhancing the role of participation, which should make it possible to protect and to exercise many other human rights.

22. Ms. ARGUILLAS (Philippines) said that the Universal Declaration of Human Rights, for whose adoption her delegation had voted in 1948, had since been incorporated into her country's legislation. In addition, the Philippines had acceded to the two International Covenants on Human Rights and attached the greatest importance to its obligations under them. As a further guarantee against another attempt to usurp the rights and freedoms of the Philippine people by a national dictator, the Philippines had made a declaration under article 41 of the International Covenant on Civil and Political Rights, and her Government had ratified the Optional Protocol thereto. The Philippines had also been a sponsor of the draft Second Optional Protocol aiming at the abolition of the death penalty, being convinced that such a step could not but enhance human dignity.

23. Her delegation wished to stress that, despite the recent threat to the life of the nation and the proclamation of the state of emergency by President Aquino following a frustrated coup d'état, the application of none of the rights recognized in the International Covenants on Human Rights had been suspended, the civil courts continued to function, Congress had met, and the local authorities were performing their duties normally. The exercise of special powers by the President when the state of emergency had been proclaimed was provided for in article XII, section 17, of the Constitution adopted in 1987, whereby the President was entitled to exercise such powers in order to secure the proper functioning of the public services and other enterprises of public interest during the state of emergency.

24. Commenting on agenda item 17, she said that the supervisory bodies established pursuant to the international human rights instruments played an essential role in promoting and protecting human rights. The periodic reports

submitted by States parties to the treaty bodies provided an opportunity to examine the policies and programmes for the protection of human rights applied by States and to make the necessary adjustments to them; they also enhanced the responsibility of States to the international community in the human rights field. The Philippines had ratified the six human rights conventions under which supervisory bodies had been established and, quite recently, the Convention on the Rights of the Child, under which a committee on the rights of the child was due to be established in due course. Over the last 11 months, five of the six treaty bodies had considered the initial or periodic reports of the Philippines on its implementation of the relevant treaties.

25. The comments which her Government wished to make concerning Mr. Alston's study on ways of improving the effective implementation of international instruments on human rights (A/44/668) and the study on the computerization of the work of treaty bodies were based on the experience which the Philippines had acquired when submitting its reports and through the discussions which its delegation had had with the bodies established under international instruments. She wished to add the following comments to the observations made in that connection in the Third Committee at the forty-second session of the General Assembly.

26. First, her delegation welcomed the preparation of draft consolidated guidelines for the initial part of the reports of States parties (A/44/539) and hoped that the text would be adopted promptly, since it would make it possible to alleviate the burden of work upon both the States parties and the treaty bodies and to limit their expenditure.

27. Secondly, her delegation hoped that the computerized data base proposed by the Task Force on computerization (E/CN.4/1990/39) would soon be fully operational, since it would greatly facilitate the work of the different bodies and would enable them to identify much more easily the various sources of information directly affecting their work. The questions asked by members of the committees concerned showed that some of them were insufficiently acquainted with the countries whose reports they were considering, or were even in the grip of certain persistent prejudices.

28. Thirdly, her delegation supported the idea that, when future instruments were being drafted, the treaty bodies to be established should be given some latitude with regard to the periodicity of reporting.

29. Fourthly, in view of the universal nature of human rights, the financing of new treaty bodies should be borne by the United Nations regular budget.

30. Fifthly, her delegation fully supported the fruitful and constructive practice whereby a list of major issues of interest to the treaty body was communicated in advance to the representative of the State party concerned.

31. Sixthly, the work of the treaty bodies should be made more accessible to the public. In that connection, the Ministry of Foreign Affairs of the Philippines had distributed widely a brochure summing up the debates in the Human Rights Committee on the Philippines' initial report.

32. Seventhly, the definitive formulation of the International Convention on the Protection of the Rights of All Migrant Workers and their Families should be preceded by a technical examination, since that practice had been found to be particularly productive in the case of the Convention on the Rights of the Child. Finally, the machinery for protecting human rights, particularly the submission of reports, was essential for the effective enjoyment of the fundamental rights of human beings everywhere in the world.

33. Mrs. BALJINNYAM (Observer for Mongolia) said that the improvement in the international political climate, particularly the strengthening of mutual confidence between East and West, the first steps towards genuine disarmament, the progress towards a peaceful settlement of the Cambodian problem and the elections in Namibia had certainly contributed to the success of the latest session of the United Nations General Assembly. The latter had adopted, in particular, the Convention on the Rights of the Child, of which Mongolia had been one of the first signatories, the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. She was also happy to note that the United Nations had launched International Literacy Year; the activities undertaken in connection with it should also contribute to the campaign against underdevelopment and poverty.

34. Her Government considered that all human rights and fundamental freedoms were complementary, interdependent and inseparable, as Mr. Danilo Türk had clearly shown in his report. The same was true of the components of the Declaration on the Right to Development. It was widely recognized that peace, development and human rights were closely connected. Consequently, respect for human rights and their protection within the framework of development were essential for the internal stability of countries and for international peace and security. It was alarming to note that the rights and freedoms set forth 40 years previously in the Universal Declaration of Human Rights were still liable to mass violations and that the implementation of the right of peoples to development was being prevented by violations of the right to self-determination, the instability of the world economy, racial discrimination, foreign invasions, poverty and the debt burden. It was therefore incumbent upon the international community to create an international economic and political environment conducive to the realization of that right.

35. Her delegation had followed with great interest the work of the global consultation on the right to development as a human right, held at Geneva from 8 to 12 January 1990. The conclusions and recommendations of the consultation deserved to be considered by the Commission, reflected in the International Development Strategy for the Fourth United Nations Development Decade, and included in the agendas of the special session which the General Assembly was to hold in 1990 on international economic co-operation for development, of the United Nations Conference on the Least Developed Countries and of the Conference on Environment and Development.

36. The preparation of international instruments was undoubtedly of vital importance, but all the parties concerned, particularly Governments, must endeavour to implement them effectively. In that connection, her delegation welcomed the latest steps taken by the United Nations, particularly the

recommendations made by the meeting of the chairpersons of the human rights treaty bodies aimed at streamlining, rationalizing and improving the reporting system.

37. Her delegation welcomed the preparation of draft consolidated guidelines for the initial parts of the reports of the States parties, and the preparation, by the Centre for Human Rights and UNITAR, of a detailed manual on the submission of reports. It also wished to stress the great importance of providing countries with regular technical assistance and advisory services through training courses on the preparation and submission of reports by States parties.

38. Her delegation also considered that the committees concerned should be financed from the United Nations regular budget or that other financial arrangements be made to enable them to function effectively. In addition, it supported the recommendation that the chairpersons of the treaty bodies and of the relevant United Nations regional commissions should meet to exchange information and experience.

39. Her delegation would warmly welcome a concrete and pragmatic approach designed to strengthen national human rights institutions and to help them to respond to the specific needs of their countries.

40. As part of the restructuring process started in Mongolia for the purpose of establishing a real democracy and a State subject to the rule of law, emphasis was currently being placed on the social and human dimensions of development and on the harmonization of certain laws and regulations with the universally recognized international standards. The Labour Code, the Civil Code, the Criminal Code and the Pensions Act, were currently being revised. Legislation on State enterprises and co-operatives had recently been adopted. In order to strengthen the legal basis of State organizations, it was expected that the legislation on elections, youth and associations would soon be amended or entirely new provisions adopted. Her Government invited experts from the international organizations, particularly ILO, to help it in that task.

41. In the human rights field, Mongolia was discharging its obligations and presenting in good time its periodic reports to the bodies established pursuant to the international treaties to which it was a party. It was encouraging to note that the bodies concerned appreciated the substantial results achieved in applying those instruments. Mongolia would continue, as in the past, to co-operate with the bodies concerned and to discharge its obligations in full.

42. Mr. de VEY MESTDAGH (Observer for the Netherlands) said that the Universal Declaration of Human Rights and the two International Covenants on Human Rights constituted the legal basis for the realization of human rights, which was one of the main objectives of the United Nations. Membership of the Organization therefore involved, almost by implication, being a party to the Covenants. However, according to the Secretary-General's report on the status of the two instruments (A/44/441), 92 States had hitherto ratified the International Covenant on Economic, Social and Cultural Rights, and 87 States had ratified the International Covenant on Civil and Political Rights. It

would therefore be useful to consider, at one of the Commission's forthcoming sessions, the obstacles which were preventing certain States from ratifying those instruments.

43. Moreover, there was no doubt that the two Covenants had the same value and provided the best set of rules for securing the protection and physical and mental integrity of the individual. In that connection, his delegation wished to emphasize the Limburg principles concerning the implementation of the International Covenant on Economic, Social and Cultural Rights (E/CN.4/1987/17). His delegation had always maintained that the primary responsibility for securing the effective enjoyment of those rights rested with Governments, but the international community must help countries which experienced difficulties in that regard. His Government was trying to meet its responsibilities in that field through an active policy of co-operation for development.

44. While recognizing that a country's economic and social situation had consequences for the exercise of human rights there, his delegation took the view that the Commission was not competent to consider questions as technical as, for example, external indebtedness, economic adjustment policies, the environment or disarmament. All those problems were real ones, and his Government took them very seriously, but they were, in its opinion, matters for the technical bodies specifically established to try to solve them.

45. With regard to civil and political rights, his delegation stressed the importance of the First Optional Protocol to the International Covenant on Civil and Political Rights, which offered a further possibility of strengthening the protection of human rights at the individual level. His delegation therefore urged all States parties to the Covenant to accede to the Optional Protocol as soon as possible. It also welcomed the adoption, by the General Assembly at its forty-fourth session, of the Second Optional Protocol aiming at the abolition of the death penalty, which strengthened the provisions on the protection of the right to life set forth in article 3 of the Universal Declaration of Human Rights and in article 6 of the International Covenant on Civil and Political Rights.

46. For several years the effective functioning of bodies established pursuant to United Nations human rights instruments, which was the subject matter of agenda item 18, had been increasingly threatened by a whole series of problems, including the growing number of supervisory bodies, the increase in the reporting obligations of States parties, and the lack of resources. In that connection, his delegation welcomed Mr. Alston's excellent report on the effective implementation of international instruments on human rights (A/44/668) and was pleased to note that a number of Mr. Alston's conclusions for improving the existing system of supervision concurred with the recommendations made on the subject by the Netherlands Advisory Committee on Human Rights and Foreign Policy in a report which had been distributed as an official United Nations document at the forty-third session of the General Assembly (A/C.3/43/5). It would be useful if the various existing treaty bodies were to make a careful study of Mr. Alston's report and then submit their comments to the Secretary-General.

47. States parties to the various instruments should also meet to examine their financing problems and to consider what procedures should be adopted to resolve them. All States parties should, of course, meet their financial

obligations under the instruments without delay, and the situation of States parties that were greatly in arrears should be reconsidered. The financial difficulties being experienced by a number of treaty bodies were partly due to the current system of financing by States parties. His Government had never been in favour of that system, since it believed that the United Nations as a whole had a responsibility to protect and promote human rights. It therefore considered that funds could be allocated from the regular budget on a temporary basis in order to help bodies which found themselves in difficulties, against subsequent reimbursement out of the contributions received in the course of the same budget year.

48. Furthermore, his delegation fully endorsed Mr. Alston's conclusion concerning the desirability of reducing or rationalizing the number and scope of non-treaty-based requests for reporting (A/44/668, para. 3). That would make it possible to alleviate the burden imposed on the responsible national authorities. Moreover, the Commission on Human Rights, which was the originator of many instruments, should make every effort to ensure that the standards were as coherent as possible, and the Secretariat could assist it in that regard by drawing up an inventory of all standard-setting activities in the field of human rights and by bringing it regularly up to date. However, it was also important that all Member States should bear their responsibilities. While recognizing the usefulness of those activities, his delegation considered that, over the next decade, the emphasis should be placed on the effective implementation of all the standards already in existence, including monitoring of their implementation.

49. Mr. LEORO (Observer for Ecuador) said that the Commission on Human Rights was called upon to play a leading role in the efforts being made to implement the Declaration on the Right to Development and that it should therefore make arrangements to secure the co-operation of all States and international organizations with a view to promoting that right. The document prepared by the Secretary-General on the subject (E/CN.4/1990/33) contained some elements that could serve as a basis for the universal recognition of the right to development and for the elimination of all the obstacles that might impede the achievement of the social and human objectives which enjoyment of that right implied.

50. The right to development was closely connected with other very important rights such as the right to self-determination and the right to non-intervention and international peace and security set forth in the United Nations Charter, in the International Covenants on Human Rights and in the instruments concerning the elimination of all forms of racial discrimination and the protection of certain minorities. It was incumbent upon the United Nations to ensure that the implementation of the Declaration on the Right to Development was taken into account in all its activities.

51. His Government, which had unreservedly endorsed the Declaration, would continue, as in the past, to take the necessary steps to perform the primordial task, which amounted to what it called "the payment of the social debt". The social development plan which it had drawn up and which, like the right to development, included fundamental economic and cultural development aspects, was geared to that purpose. The United Nations must formulate a plan of action having a direct relationship with the principles set forth in the Declaration and give urgent consideration to ways of solving the problems

impeding the implementation of the right to development, including the external debt, unfair terms of trade and capital outflows from the South to the North. Recent world events clearly showed that peoples were claiming the right to development and that popular participation was moving in that direction in both the East and the West. Such participation could become a vital social force only within the framework of democracy, the sole system that could guarantee the human rights set forth in national and international instruments.

52. His delegation supported the suggestion made in the annex to document E/CN.4/1990/33 concerning the points to be included in a questionnaire on the realization of the Declaration on the Right to Development. The replies to the questionnaire would give an idea of the attitudes of States to the right. Moreover, since the right to development affected both developed and developing countries - development being an endless process - it might be advisable for the developed countries, like the international organizations, to report on what they were doing in the context of international co-operation for development, so that the impact of the Declaration at the national and international levels could be better evaluated.

53. With a view to realizing the right to development, his Government had embarked upon a vast programme of action to improve the situation of the population, particularly in the fields of health and nutrition, and it would continue to do its best to meet its obligations so as to ensure that all human rights, including the right to development, were respected.

54. All rights had the same value and should be respected on the same footing. On their effective enjoyment depended the improvement of the welfare of peoples and the peace and tranquillity of a world that was increasingly open to democratic change and aware of the need for universal solidarity.

55. Mr. GALKA (Observer for the Byelorussian Soviet Socialist Republic) said that the harmonious realization of all human rights was one of the main objectives of the international community. The Commission on Human Rights should do everything possible to secure the implementation, in all countries, of all the rights set forth in the Universal Declaration of Human Rights and in the two International Covenants on Human Rights, since those rights were still only a dream for millions of human beings. The need to secure the promotion of human rights was dictated by the very logic of mankind's development and by the growing interdependence of countries.

56. The process currently taking place in the Byelorussian SSR should help to create the conditions under which respect for all human rights could be ensured and a State subject to the rule of law established. The Byelorussian SSR had always supported co-operation based on equality of rights, which in turn was based on legal norms. In that connection, his delegation was pleased to note that the number of States parties to the two International Covenants on Human Rights continued to increase, and it invited the Commission to continue its efforts to induce all States which had not yet done so to ratify or accede to those instruments so that they could have a really universal character. The Byelorussian SSR had been among the first States to ratify the two Covenants, and it was trying to discharge its obligations under them. As a general rule, the periodic reports submitted by

the Byelorussian SSR to the Human Rights Committee and to the Committee on Economic, Social and Cultural Rights had always been assessed positively, and his delegation expressed the hope that they would continue to be so, having regard, in particular, to the changes that had taken place.

57. His delegation, which was glad to note that the right to development was a separate agenda item, stressed the importance of the Declaration on the Right to Development, which laid down a programme of action and co-operation which States should implement to secure the exercise of the right. It should be borne in mind that the right to development was linked to international respect for the independence of peoples, the sovereignty of States and non-interference in their internal affairs, as well as to the principles of non-discrimination and equality of rights.

58. International co-operation was essential for the promotion of the economic and social development of all States within the framework of security and disarmament and for any hopes of being able to give everyone the possibility of enjoying all the human rights indispensable for the full flowering of the human personality.

59. Mrs. NUÑEZ DE ESCORCIA (Observer for Nicaragua) said that her delegation attached very great importance to the right to development, since it was connected with another issue which constituted one of the main obstacles to the full exercise of human rights - namely, an international economic order which was unjust to the poor countries. Nicaragua was encountering the same problems as other developing countries, and was also experiencing the consequences of external indebtedness and unfair terms of trade. Development was impossible in such circumstances, and it was therefore essential to modify the policies impeding the establishment of a new international economic order.

60. At the national level, the right to development required the participation of the people in decision-making on matters which concerned it, particularly the exercise of its right to choose freely its own political, economic and social system without foreign interference of any kind - in other words, its right to be master of its own fate. Because it had wished to exercise that right, Nicaragua, which had only 3 million inhabitants, had for 10 years been subjected to systematic aggression by the United States of America, which had vainly sought by every means to destroy the Nicaraguan revolution, which favoured a policy of real social change.

61. The damage caused to Nicaragua by the war of aggression had been estimated at around $US 18 billion, and the International Court of Justice had, in its historic judgement of 27 June 1986, recognized Nicaragua's right to reparations.

62. She wondered what meaning there was in the Declaration on the Right to Development when criminal actions of that type took place and even the world's highest court could not put an end to them. The efforts of the international community seemed to be of no avail against policies of hegemony which dashed all the hopes aroused by the various conventions and declarations that had been adopted, the effectiveness of which would become less and less if no attempt was made to translate them into concrete action.

63. The Commission should therefore identify ways and means of promoting the campaign for the right to development in the 1990s in such a way that the year 2000 would see the birth of a new era in which the disadvantaged peoples of the world would be offered real opportunities of development.

64. Mr. HANNAH (Observer for New Zealand), speaking on agenda items 17 and 18, said that he was pleased to note that the number of States parties to the Covenants had increased since the Commission's previous session. His delegation supported the efforts which the Centre for Human Rights was making to publicize the International Bill of Human Rights throughout the world and to encourage more States to become parties to the Covenants. It requested the Centre to direct its efforts more particularly to the South Pacific. New Zealand, for its part, had acceded to the Optional Protocol to the International Covenant on Civil and Political Rights in 1989. As a result, any person under New Zealand's jurisdiction could submit a complaint to the Human Rights Committee if he or she considered that one of the rights set forth in the Covenant had been violated in his or her case.

65. His Government categorically rejected the idea that violations of human rights could be exclusively the domestic affair of States and believed that individuals and other States were entitled to bring violations of human rights to the attention of the international community. At the latest session of the General Assembly, his delegation had welcomed the adoption of two more important instruments: the Second Optional Protocol aiming at the abolition of the death penalty and the Convention on the Rights of the Child. The standard-setting work of the United Nations in the human rights field had thus been largely completed and further instruments should be drafted only in response to really fundamental needs, according to the criteria set forth in General Assembly resolution 41/120. The highest priority should currently be given to the implementation of existing standards. Furthermore, in view of the vital role which the treaty bodies had to play in that connection, efforts must be made to solve the problems which they were facing, such as financial difficulties, overwork, and delays by States in submitting their reports.

66. Those problems were analysed in Mr. Philip Alston's excellent report (A/44/668), which his delegation commended for consideration to the bodies directly concerned and which contained many interesting proposals. In particular, there was the proposal that uniform guidelines should be prepared for the submission of reports by States and that cross-references should be made to information already supplied by a particular State in other reports. The role played by the advisory services programme in assisting States to prepare their reports should also be stressed. Finally, it should be pointed out that the treaty bodies would function better if the Centre for Human Rights had more funds and more staff.

67. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education), speaking on agenda item 7, said it was most regrettable that freedom of education was a poor relation among the freedoms protected by the International Covenant on Economic, Social and Cultural Rights. In that connection, it would be remembered that, in his preliminary report on the realization of those rights submitted to the Sub-Commission in August 1989, Mr. Türk had stated that academic freedom constituted one of the areas within which the interdependence of the two major groups of human rights became apparent (E/CN.4/Sub.2/1989/19, para. 74). The same was true of freedom of education in general, which was proclaimed in both Covenants.

68. Unfortunately, certain States looked upon freedom of education with mistrust, trying to prove that it was harmful or that it was not an essential priority. However, it was difficult to see how a public freedom could be harmful or fail to be a priority. In that connection, Georges Burdeau, a well-known specialist in public freedoms, had stated: "The monopoly of education (by the State) inevitably leads to a regimentation of thought and to its domestication in the service of the party".

69. Freedom of education simultaneously involved freedom of opinion (right to teach), the equality of individuals (right to learn), freedom of conscience (right to choose one's master) and freedom of enterprise (right to establish and direct educational centres). According to the International Bill of Human Rights, it compromised four rights: the right of parents or legal guardians to choose for their children schools other than those established by the public authorities; the right of parents or legal guardians to ensure the religious education of their children in conformity with their own convictions; and the right of individuals and bodies to establish and direct educational institutions. With regard to the first two of those rights, he referred to article 26 of the Universal Declaration of Human Rights and to article 18, paragraph 4, of the International Covenant on Civil and Political Rights. He noted that the International Covenant on Economic, Social and Cultural Rights went even further by mentioning schools other than those established by the public authorities.

70. The rights he had just mentioned would remain theoretical unless States made them financially achievable by subsidizing the needs of schools other than those of the public authorities. Another international instrument, of regional dimension, the resolution on freedom of education adopted by the European Parliament in 1984, affirmed in paragraph 9 that the right to freedom of education implied the obligation of States to make the practical exercise of that right financially possible and to grant schools the public subsidies needed for them to do their work and to discharge their obligations in conditions equal to those enjoyed by the public establishments.

71. Although some countries, like Belgium or the Netherlands, had long since established educational systems which favoured freedom of education, the situation was, on the whole, still insecure at the international level. In some countries, freedom of education was purely theoretical, and other countries went so far as to forbid it outright, by law.

72. To enable United Nations bodies to provide better protection for freedom of education, which was at the basis of democracy, his organization had drafted, for the Committee on Economic, Social and Cultural Rights, a memorandum on the scope of that freedom in the Covenants which, it hoped, would be given priority consideration in the context of the right to education.

73. Ms. LACOURT (International Federation - Terre des Hommes) said that, first of all, she wished to point out that her organization attached great importance to the right to property, which had been affirmed once again in Commission resolution 1988/18.

74. It wished to draw the Commission's attention, however, to the hazardous situation in Brazil arising from the fact that most cultivable land was in the

hands of big landowners. There had been no real agrarian reform, and the process of land concentration was continuing, causing resistence among the peasants and conflicts.

75. Since 1985, there had been over 1,000 unsolved cases of murder. A report by the Pastoral Land Commission referred to 680 land conflicts in 1988, which had led to the death of some one hundred persons and had affected over 680,000 others - peasants, trade union leaders or lawyers. In 1989, the same institution had recorded an increase in the number of conflicts of almost 50 per cent as compared with the previous year in the state of Ceará alone. The big landowners were employing ruffians known as "pistoleiros", who were committing all sorts of crimes; if trials took place at all, they hardly ever led to a conviction. In the north-east region, there were 1,782,000 families of landless workers, 65 per cent of all the landless in Brazil. In the state of Ceará alone, countless families that had been run off the land were living on the outskirts of large cities like Fortaleza. The illiteracy rate amounted to 70 per cent in the countryside, and infant mortality to 250 per 1,000 live births in some places.

76. Her organization was supporting local initiatives in Brazil to improve the lot of the small peasants. It had been directly informed of two serious cases of violations which had affected the rights of several of its partners. At Choro, in the north-east, peasant families had been expelled following a sale. They had brought a legal action. At first they had won, but then the judge had decided in favour of the new owner under pressure from the latter's family. A lawyer representing the peasants had received death threats, and the police had refused to give him protection. Threats had also been made against a family which had taken the leading role in the peasant community. The file remained pending with the National Institute for Settlement and Agrarian Reform. In addition, on 30 March 1989, at Alhandra, in Paraiba State, a woman farm-worker, Severina Rodrigues da Silva, had been killed by a landowner, Severino Mariano Silva, when she had been taking part in a mass meeting on the subject of the murder of another farm-worker in the area. Mrs. Rodrigues da Silva had been a member of a popular movement which co-operated with the International Federation - Terre des Hommes.

77. The Federation was convinced that failure to respect the right to property led to injustices, to extreme violence and to violations of human rights. She hoped that there would be an improvement with the coming to power of a new president in Brazil, elected by universal suffrage. She asked the Commission on Human Rights to invite the new Brazilian Government to recognize the title deeds of rural workers, to condemn all persons who murdered workers - in particular, the murderer of Mrs. Rodrigues da Silva - and to encourage and protect the action taken by local groups working to support peasants' rights.

78. Ms. PINTAT (Inter-Parliamentary Union), having noted with pleasure that there were three women among the officers of the Commission, said that her organization, which had celebrated its centenary in 1989, grouped together 12 national parliaments, with the European Parliament as an associate member.

79. Commenting on agenda item 7, she said that the Plenary Conference of the Inter-Parliamentary Union, held in London in September 1989, had provided the occasion for an extensive debate on the subject of the balance to be struck

between population and food resources and on the search for rational and effective solutions to the third world's problems of indebtedness. The resolution adopted had been distributed to the Commission. She referred to some of the concerns and solutions set forth therein. First of all, development, human rights and political participation could not be dissociated from one another. At the national level, popular participation was given effect essentially through parliaments. The Inter-Parliamentary Union was therefore trying to increase the role of parliaments through information, through meetings on parliamentary matters, and through studies; in particular, it published an annual chronicle of elections and parliamentary trends in the various countries of the world. It was also implementing a programme of technical co-operation with the parliaments of the developing countries, in liaison with intergovernmental agencies such as UNDP, governmental institutions and the parliaments of countries having a long parliamentary tradition.

80. In developing countries, parliaments played a particularly important role in the planning and development process and, owing to their first-hand knowledge of the facts and their daily contact with the people whom they represented, members of parliament were in a position to ensure that the concerns and interests of the latter were taken into account before helping to introduce plans and legislation that enjoyed popular support.

81. In its work to promote popular participation, the Inter-Parliamentary Union had noted the inadequate participation of women. According to statistics which it had published on 30 June 1989, only 12.7 per cent of members of parliament were women, and there had been 2 per cent less women in parliaments in June 1989 than in January 1988. The Inter-Parliamentary Union considered that action should be taken to remedy that situation and it had organized, at Geneva in November 1989, an inter-parliamentary symposium on the participation of women in decision-making in political and parliamentary life. The symposium had been attended by some 150 members of parliament from 66 countries, representatives of international organizations, journalists and so forth. The text summarizing the discussions was available to the members of the Commission, who were invited to acquaint themselves with its contents.

82. Mrs. Sinegiorgis (Ethiopia) took the Chair.

83. Mr. MANOCHA (Baha'i International Community), having expressed his support for the conclusions reached in the report on the global consultation on the realization of the right to development (E/CN.4/1990/9), said that his organization hoped that those who were in a position to secure the realization of that right would not give way to compromise and self-interest; on the contrary, a fundamental conviction as to the need for mankind to be united in its awareness of a global society was called for. The right to development must transcend political or economic ideologies.

84. Turning to the conditions required for the full realization of the right to development, he mentioned first the emancipation of women. In many developing countries - but not in those countries alone - women were confined to certain tasks: in addition to their function as mothers, they tended the crops, kept the house, went to market, fetched the fuel and water, and served the men. That did not leave them either the time or the energy to participate in decision-making. It was, however, necessary for women to participate in

the choices to be made at all levels of development, and to enable them to do so the competent authorities must begin to give the highest priority to female education.

85. Education played a vital role, since educational failings led to racism, nationalism and sexual inequality. All countries that might benefit from international aid as a result of arms reductions must therefore be urged to allocate part of those resources to the building of a proper elementary and secondary education system. As was stated in the Convention on the Rights of the Child, the energy and talents of young people must be devoted to the service of their fellows. Fortunately, the contemporary world and its civilizations, cultures, religions, human families, etc., were currently studied in many schools. Nevertheless, it was not enough just to disseminate knowledge: there was also a need for boys and girls of good will animated by the desire to serve mankind.

86. The Convention on the Right to Development affirmed that the human being was at the centre of development. That meant that it was necessary to develop what was essential in man - namely, his virtues. In the process, an impartial system of discussion based on an awareness of the unity of the human race must be created at all levels of decision-making. Development was, in fact, a reciprocal responsibility. In order to help to develop the world around one, it was necessary first of all to develop the world within one. That was not only a requirement of ethics but also a lasting proof of the essential unity of mankind.

87. Mr. KALKE (International Association against Torture) said that it was noteworthy that peoples denied the right to development - social, economic or cultural - were coming increasingly into conflict with the authorities, which ended up by resorting, if not always to torture, at least to more subtle but equally cruel methods, including land rights or food policies used as weapons in an increasingly brutal war against the dispossessed. The wind of change that had been blowing for some time over Europe had opened the way to the exercise of civil and political rights, but for a few European peoples only, since the area affected by the change remained limited and did not include the countries of the South, which were, however, directly concerned by the right to development. It was even to be feared that the wind of change might be a cold wind, come to freeze a new situation characterized by a strengthening of power in the northern hemisphere, which was experiencing the reign of civil and political rights in the context of economic, social and cultural exchanges, which would exclude the nations of the southern hemisphere. For them nothing had changed save perhaps for the worse.

88. The third world had seen the emergence of new democracies which had effectively advanced respect for civil and political rights. However, the question remained as to whether the economic models favoured by the new democracies would succeed in reducing the widening gap between rich and poor It might be wondered whether export-oriented economic models - as in Chile, for example - would solve the problems of the casual labourers, the agricultural workers and the homeless. It was not clear that those new democracies were sufficiently independent of the North to be able to recognize the right to development of their indigenous populations. His organization feared that they were in fact dependent on armies that retained links with the Northern Powers, which were obstructing not only the exercise of the right to

self-determination but also, and most importantly, the right to development. Under agenda item 12, the Commission would be dealing with disturbing situations in which gross and systematic violations of human rights continued to be committed by the new democracies, which, far from being brought about by the change, seemed rather to be a new form of domination which endangered, more than ever before, the right to development and other fundamental freedoms.

89. The countries of the North, for example, continued to pursue policies which not only had an adverse impact on the development of peoples but also destroyed the fragile processes which had been started: food policy was a well-known weapon used by the North to exert pressure on countries in the South. While enormous food surpluses were stocked in the United States of America, the percentage of children suffering from malnutrition in Africa, Asia and South America continued to increase. It seemed unlikely that the change would bring about a better distribution of food reserves in the world. Economic blockades had also been used by countries in the North to paralyse the economic development of countries in the South, in order to impose a certain type of democracy, whereas there had been a refusal to resort to them in a concerted action by the international community to combat apartheid. It might be wondered whether the blockades imposed against Cuba, Nicaragua and Panama were not a new form of domination.

90. There were other examples of threats by the North to the South's right to development. Questions might be asked about the controls imposed on transfers of technology through a direct political stranglehold or a system of price-fixing and to what extent they, too, constituted a way of violating the right to development. The anti-drug measures were another case in point and whether the invasion of Panama was part of the war against drugs or of the war against development models running counter to the interests of the North.

91. Finally, the right to migrate also deserved to be considered in the context of the change. Whereas the world applauded when it saw the walls of division crumbling, nations erected other less visible walls, in the form of legislation affecting the freedom of movement of persons fleeing from political or religious persecution. Policies in the countries of the North designed to restrict immigration posed many problems for the increasing numbers of refugees from the Middle East, Africa and the Americas. The persecution of persons in irregular circumstances in the United States of America was reducing almost to slavery a whole labour force already excluded from the development process in its country of origin. Finally, regional conflicts were continuing, with the support of the North, and the number of displaced persons living precariously in refugee camps or reception centres, or as tramps without documents in the streets of New York, was increasing. For all those people, the right to development did not exist. He wondered whether the wind of change which was blowing through the North would drop before it reached the South. His organization hoped that the countries of the North would think about the questions which it had just asked when they came to reflect on their duty to promote the right to development, which consisted in having access to the necessities of life - to food, shelter and care. It should not be confused with the North's needs to find new markets and new supplies of natural resources. The right to development was therefore a question of survival, and the number of those struggling to obtain it was increasing.

92. Mrs. Quisumbing (Philippines) resumed the Chair.

93. Ms. AHIABA (Grand Council of the Crees (of Quebec)) said that, for indigenous peoples, human rights and the right to development were inseparable and the relationship with development defined the essential condition of those peoples, who had lost their lands, their livelihoods, and in general their resources to development. Since Christopher Columbus, the history of the indigenous peoples in the western hemisphere had been characterized by extermination that resulted directly from development and their existence was currently threatened by the implementation of the prevailing development strategies.

94. The rights of indigenous peoples to life and to the enjoyment of their own means of subsistence, had been denied to them through a forced exploitation of their lands for a form of development which took no account of their needs, their economies, or their existence. Indigenous peoples were not opposed to real development, but they wanted to make it clear that they had experienced development only as its victims. They wanted the right to development to be envisaged within the framework of strategies which would have indigenous peoples as their beneficiaries. That had never happened before because indigenous peoples were generally regarded as obstacles to development. They were not consulted when development policies and projects were drawn up; their lands and the resources thereof, which constituted their essential capital, were exploited, wasted and pillaged by others. Furthermore, indigenous peoples rarely had a share in the benefits of the development.

95. Such abuses were the direct consequence of development strategies in which indigenous peoples were not regarded as subjects of the right to development. The right to self-determination had hardly ever been recognized in their case, whereas it was, with the right to development, the source of other rights. Nevertheless, it followed from the Declaration on the Right to Development that indigenous peoples, as distinct groups, had the right to determine their own development model, to plan and implement their own development strategies, and to benefit from them.

96. The destruction, degradation or pillaging of natural resources, waters, fauna and flora, forests and food resources on indigenous lands was endangering the indigenous peoples' right to life. Consequently, the opposition displayed by indigenous peoples to development was simply their refusal to see the environment thoughtlessly destroyed in order to attain short-term objectives.

97. The concepts on which development was based must be revised along the following lines. First of all, it must be asked whether a given project was a matter of long-term development or of short-term exploitation designed to enrich one section of society at the expense of another. Secondly, it must be determined whether the long-term effects were compatible with the concept of viable economic development. Thirdly, it must be determined whether the development options in question entailed irreversible and mutually exclusive decisions that presupposed a knowledge of future needs and land and resource utilization, a knowledge that was often very imperfect. Fourthly, the values and orders of priority on which the options were based must be determined, and it must be asked whether they were compatible with the right of peoples to self-determination and respect for basic human rights.

98. It was essential that the indigenous peoples' point of view on development should be reflected in the development strategy for the 1990s which was currently being prepared in the United Nations. The concerns she had just expressed had been raised in January 1989 at the United Nations seminar on the effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States (E/CN.4/1989/22). Finally, the Commission ought to study carefully and endorse the report of the recent global consultation on the realization of the right to development held at Geneva in January 1990 (E/CN.4/1990/9).

99. Mr. LESTOURNEAUD (International Federation for Human Rights) said that recognition of a right in a convention was not sufficient to make it legally effective. An effective right was a tangible and efficacious one, and therefore a protected right. Such a requirement was, moreover, set forth in international instruments, particularly in Article 55 (c) of the Charter, in the preamble to the Universal Declaration of Human Rights and in Commission resolution 1989/47, which affirmed the importance of the effective implementation of United Nations instruments. However, obstacles were still being encountered in the practical implementation of United Nations mechanisms, and his organization wished to recommend a number of measures to improve the effective functioning of the treaty bodies.

100. First, at the moment when a case was referred to the competent treaty body for each instrument, if the body in question were not effectively seized of it, the violation continued in silence. In the United Nations, however, unlike the European system and most national legislations, there was no system of legal aid to help the most disadvantaged. Secondly, at the stage when individual communications were considered, arrangements should be made for an amicable settlement, as was provided for by the European Convention for the Protection of Human Rights and Fundamental Freedoms; for an oral hearing of the applicant and his counsel before the competent treaty body, in accordance with the principle of due process set forth in article 14 of the International Covenant on Civil and Political Rights; for the appointment, in complex cases, of an adviser-rapporteur in each treaty body, selected from among its members; and, lastly, for the abolition of the consensus rule, which was contrary to article 39 (b) of the aforementioned Covenant and to rule 51 (a) of the rules of procedure of the Human Rights Committee. Thirdly, at the execution stage, a special rapporteur with powers to supervise the execution of the decisions adopted should be appointed, along the lines of the provisions of article 54 of the European Convention on Human Rights.

101. Fourthly, at the administrative level, his organization recalled that, in its report for 1989, the Human Rights Committee had urged the Secretary-General to take the necessary steps to ensure that the staff allocated to the Committee's work was considerably strengthened; that had become vital in view of the Committee's increased workload. Fifthly, textual inadequacies would have to be eliminated; to begin with, he invited the Commission to request, as from its current session, that the term "human rights", be replaced by the term "fundamental rights of the person". Finally, immediate consideration should be given to the idea of establishing an international court of rights of the person, adapted to the United Nations system and having the same number of panels as there currently were treaty bodies.

102. Mr. LACK (Co-ordinating Board of Jewish Organizations and World Jewish Congress), speaking on agenda item 17 and 18, said he noted that the principle was becoming increasingly accepted that raising, in good faith, the question of a consistent pattern of gross and systematic violations of human rights in respect of a State which was not necessarily a party to a specific international instrument but which was a Member of the United Nations could no longer be countered by the objection that such conduct constituted an interference in matters within the domestic jurisdiction of the State concerned under Article 2, paragraph 7, of the Charter. On the other hand, however, there were signs that States parties were displaying a certain hesitation or even mistrust when considering the idea of entering into new commitments and new reporting obligations and exposing themselves to additional scrutiny by treaty bodies carrying out their supervisory functions with increasing competence and persistence.

103. It would appear, curiously enough, that roles had recently been reversed with regard to the attitudes adopted to international human rights instruments. In the former Western bloc there were many States which feared the proliferation of standards, duplication and lack of budgetary resources, or which invoked the inability of small States to meet the multiplicity of reporting demands made upon them, whereas in what had been the Eastern bloc States seemed to be rivalling one another in enthusiasm to convert themselves to pluralistic democracies and to régimes based on the rule of law and respect for human rights. It should, however, be noted that the States most reluctant to incur further obligations elaborating rules that were already outlined in the Universal Declaration of Human Rights or in the International Covenants were those that enjoyed a very honourable reputation for their consistent respect for the human rights of their citizens and of other residents in their territories. The other States, which were in the process of joining the ranks of the States parties to the principal instruments and of announcing their intention of revising their national legislations in order to bring them into line with the instruments in question, did not in the past have such good reputations in that regard. However, it was undeniable that they had grasped the essentials and had realized that the only way of really changing the quality of life was to introduce a political, economic and legal system that immediately and effectively secured the exercise of civil and political rights while progressively and substantially improving the enjoyment of economic, social and cultural rights.

104. In that connection, it should be pointed out that Hungary and Poland had just applied for admittance to the Council of Europe, whose goal was to achieve greater unity among its members in order to guarantee and apply principles such as the rule of law, the enjoyment of human rights and fundamental freedoms, pluralist democracy and the separation of powers and to facilitate the economic and social progress of its members. Admittance to the Council of Europe also meant becoming a State party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, a regional instrument which had much in common with the International Covenant on Civil and Political Rights but which was endowed with more effective and compelling organs of implementation.

105. In that regard, it was encouraging to note that the rapporteur of the Committee on Economic, Social and Cultural Rights, Mr. Alston, had been asked to prepare a study on possible long-term approaches to enhancing the operation

of existing and prospective United Nations human rights treaty bodies (A/44/668). One of the main problems that would have to be tackled was the irrational way in which the treaty bodies were financed. It was sad to note that the Committee for the Elimination of Racial Discrimination would not be able to hold its spring session in 1990 owing to lack of funds. The Convention on the Elimination of All Forms of Racial Discrimination was, however, the most widely ratified instrument with 128 States parties. Realism would require that all human rights treaty bodies should be uniformly financed out of the United Nations regular budget.

106. The study on the computerization of the work of the treaty bodies and the plan to consolidate the guidelines for reporting were based on realistic considerations, but the limitations on the co-ordination and rationalization of the work of all those bodies were apparent. Nevertheless, the international community should take advantage of the current convergence of views, amounting almost to a renaissance of the human rights movement, in order to adopt decisive and imaginative measures. A consensus could well emerge in favour of a more systematic implementation of human rights instruments. First, States which had so far been very reluctant to adopt new binding instruments, invoking the overwork which that entailed, the inadequacy of resources and duplication, should realize that a unique opportunity had presented itself to consider drafting new conventions long since advocated by the international community. Secondly, certain major States - and one in particular - whose human rights values were based on the highest ideals of civil liberties and the freedom of the citizen should respond to the current challenge and accede to at least the two International Covenants on Human Rights and the major conventions, including the Convention against Torture. Thirdly, the time had surely come to reach a consensus on the institution of a United Nations high commissioner - or universal ombudsman - for Human Rights, a proposal which had been under study for a long time and which should no longer be the subject of any controversy. Finally, the rationalization of the various treaty bodies should culminate in the establishment of an international court of human rights, whose various panels and organs would carry out all the functions of the existing and prospective treaty bodies. That proposal was quite distinct from the proposals concerning the establishment of an international penal tribunal within the meaning of article VI of the Convention on the Prevention and Punishment of the Crime of Genocide, or the creation of a universal criminal jurisdiction for certain offences such as piracy or other international crimes. The establishment of a court of human rights based on the jurisdiction derived from the principal human rights conventions was a necessity with which the States Members of the United Nations must increasingly come to grips, in so far as States parties to those conventions formed a kind of community.

The meeting rose at 6.05 p.m.